

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



Revised 10/07 WDNY

MARC T. CARRIER
399 GARNSEY RD
PALMYRA N.Y. 14522

Name(s) of Plaintiff or Plaintiffs

Jury Trial Demanded: Yes ☐ No ☒

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-VS-
NEW YORK STATE DEPT. OF HEALTH

DISCRIMINATION COMPLAINT

23 -CV- 6008- CJS

ALBANY N.Y. 12207

Name of Defendant or Defendants

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, AND a copy of the **"Right to Sue"** letter you received from the EEOC to this complaint. Failure to do so may delay your case.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

This action is brought for discrimination in employment pursuant to (check only those that apply):

☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

JURISDICTION is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).

☒

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

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PARTIES

1. My address is: 399 GARNSEY RD PALMYRA NY 14522

My telephone number is: 315-576-1404 SECONDARY 315-597-6493

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: FAIRPORT BAPTIST HOMES CARING MINISTRIES

Number of employees: 300+

Address: FAIRPORT BAPTIST HOMES CARING MINISTRIES
6646 NINE MILE PE. RD.
FAIRPORT NY 14450

NEW YORK STATE DEPT. OF HEALTH
ALBANY NY. 12247

ROCHESTER REGIONAL HEALTH
100 KINGS HIGHWAY SOUTH
ROCHESTER NY 14617

HONORABLE KATHY HOCHUL
NEW YORK STATE CAPITOL BLDG
ALBANY, NY 12224

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: _____

Address: _____

CLAIMS

4. I was first employed by the defendant on (date): OCTOBER 1997

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: ON OR ABOUT SEPTEMBER 24, 2021
6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred any did): ON OR ABOUT SEPTEMBER 24, 2021
7. I believe that the defendant(s)
- a. ☒ Are still committing these acts against me.
- b. ☐ Are not still committing these acts against me.
- (Complete this next item **only** if you checked "b" above) The last discriminatory act against me occurred on (date) _____
8. (Complete this section **only** if you filed a complaint with the New York State Division of Human Rights)
- The date when I filed a complaint with the New York State Division of Human Rights is _____
- ____ (estimate the date, if necessary)
- I filed that complaint in (identify the city and state): _____
- The Complaint Number was: _____
9. The New York State Human Rights Commission did _____ /did not _____ issue a decision. (**NOTE:** If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is: _____
11. The Equal Employment Opportunity Commission did _____ /did not _____ issue a decision. (**NOTE:** If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: _____. (**NOTE:** If it

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did issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. ☒ Failure to provide me with reasonable accommodations to the application process
- b. ☐ Failure to employ me
- c. ☒ Termination of my employment
- d. ☐ Failure to promote me
- e. ☒ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
- f. ☐ Harassment on the basis of my sex
- g. ☐ Harassment on the basis of unequal terms and conditions of my employment
- h. ☐ Retaliation because I complained about discrimination or harassment directed toward me
- i. ☐ Retaliation because I complained about discrimination or harassment directed toward others

j. ☒ Other actions (please describe) ACTING ON NYS. MANDATE FOR HEALTHCARE WORKERS, MEDICAL EXEMPTION SOUGHT FOR mRNA MEDICAL INTERVENTION DENIED, BREAKDOWN IN PROCESS FOR RELIGIOUS EXEMPTION ACCOMMODATIONS. NEW YORK STATE MANDATE POLICY REGARDING COVID-19 VACCINATION, ILLEGAL AND INTERFERING FOUNDATION BUILT ON FLIMSY AND PREJUDICE DATA. IF ANY.

14. Defendant's conduct is discriminatory with respect to which of the following (check all that apply):

- a. ☒ Race "GINA"
- b. ☐ Color
- c. ☐ Sex
- d. ☒ Religion
- e. ☐ National Origin
- f. ☐ Sexual Harassment
- g. ☐ Age _____ Date of birth _____
- h. ☐ Disability
Are you incorrectly perceived as being disabled by your employer?
_____ yes _____ no

15. I believe that I was ☒/was not ☐ **intentionally** discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are ☒ is not/are not _____ still committing these acts against me. (If you answer is that the acts are not still being committed, state when: _____ and why the defendant(s) stopped committing these acts against you: CONTINUES TO DATE, MY UNDERSTANDING MANDATE REMAINS IN PLACE

KEEPING ME FROM WORKING IN A FIELD THAT I HAVE FOR OVER 30 YEARS. WHILE PER CO-WORKERS WHO AS OF FEBRUARY 18 2022, WOULD BE EXPECTED BOOSE TO STAY IN COMPLIANCE ARE NOT BY ADMISSION NOR ARE TERMINATED APRIL 26, 2022

17. A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim. (NOTE: You must attach a copy of the original complaint you filed with the Equal Employment Opportunity Commission and a copy of the Equal Employment Opportunity Commission affidavit to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (check one):

☐ has not issued a Right to sue letter

☒ has issued a Right to sue letter, which I received on SEPT. 31, 2022

19. State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

ON OR ABOUT SEPT. 7 2021 MY SUPERVISOR MET TO INFORM OF NYS GOVERNOR'S & DEPT OF HEALTH HEALTHCARE MANDATE FOR WORKERS BEING ADOPTED. I STARTED IN WRITING IMMEDIATELY THAT I WOULD SEEK MEDICAL EXEMPTION, AND ALSO MY DESIRE FOR RELIGIOUS EXEMPTIONS, AND SHARED MY BELIEF TO FORCE A MEDICAL PROCEDURE WAS UNCONSTITUTIONAL. I WAS DENIED MEDICAL EXEMPTION BY MICHAEL WITTEK OF CARAL PARK MEDICINE OF ROCHESTER REGIONAL HEALTH. IT WAS ONLY A DAY BEFORE THE IMPLEMENTATION OF THE STATE'S DECREE BEING ENFORCED THE EMPLOYEE'S RECEIVED A FILL IN THE BLANK FORM FOR RELIGIOUS EXEMPTION. AND MY UNDERSTANDING ALL WERE DENIED AND TERMINATED THE SAME DAY THEY WERE DONE. I ALSO RECEIVED TWO (2) DENIALS FOR NYS UNEMPLOYMENT BENEFITS ONE STATING I "QUIT MY JOB FOR NO GOOD REASON" WITH EMPLOYER STATEMENT TRIES TO EXPLAIN THAT I WAS TERMINATED FOR MISCONDUCT." (EPA EQUAL PAY ACT)

FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct _____ 60 days or more have elapsed _____ less than 60 days have elapsed

FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on _____)

22. The date on which I first asked my employer for reasonable accommodation of my disability is _____
23. The reasonable accommodations for my disability (if any) that my employer provided to me are: _____
24. The reasonable accommodation provided to me by my employer were _____/were not _____ effective.

WHEREFORE, I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Dated: _____

December 29, 2022

Narc T. Carver

Plaintiff's Signature

UNITED STATES DISTRICT COURT

for the

MARL T. CARRIER

Plaintiff(s)

v.

NEW YORK STATE DEPT OF HEALTH

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

COMMISSIONER MARY T. BASSETT
 NEW YORK STATE DEPT. OF HEALTH
 ALBANY NY. 12207

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or ~~plaintiff's attorney~~, whose name and address are:

MARL T. CARRIER PRO SE

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Marc T. Carrier
399 Garnsey Rd.
PALMYRA, NY 14522

From: Buffalo Local Office
300 Pearl St, Suite 450
Buffalo, NY 14202

EEOC Charge No.
525-2022-01904

EEOC Representative
Rachel Wantuck,
Investigator

Telephone No.
(716) 748-8008

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(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Less than 180 days have elapsed since the filing date. I certify that the Commission's processing of this charge will not be completed within 180 days from the filing date.

The EEOC is terminating its processing of this charge.

Equal Pay Act (EPA): *You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.***

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Maureen C. Kielt

Digitally signed by Maureen C. Kielt
Date: 2022.09.30 10:15:13 -04'00'

Enclosures(s)

Maureen Kielt
Local Director

cc: Hillary Fraenkel
Eustace Prezioso & Yapchanyk
55 WATER ST FL 28
New York, NY 10041

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> EEOC 525-2022-01904 </div> <div style="display: flex; justify-content: space-between;"> FEPA </div>	
New York State Division Of Human Rights and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) Marc T. Carrier		Home Phone 315-573-4610	Year of Birth <div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto; text-align: center; line-height: 40px;"> DEC 2022 </div>
Street Address 399 Garnsey Rd. PALMYRA, NY 14522			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name FAIRPORT BAPTIST HOMES		No. Employees, Members 101 - 200 Employees	Phone No. (585) 388-2316
Street Address 4646 NINE MILE POINT RD FAIRPORT, NY 14450			
Name 		No. Employees, Members 	Phone No.
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON Religion		DATE(S) DISCRIMINATION TOOK PLACE <div style="display: flex; justify-content: space-between;"> Earliest 09/24/2021 Latest 09/24/2021 </div>	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): I was employed by the above-named Respondent. I was notified by my employer that it would be requiring all employees to be fully vaccinated. I sincerely hold a religious belief that conflicts with my employers vaccination requirement. During my employment, I notified my employer of my religious belief and requested a religious accommodation to Respondents Covid-19 vaccination mandate, which was denied. On September 24, 2021, I was discharged. I believe I have been discriminated against because of my religion in violation of Title VII of the Civil Rights Act of 1964, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct. Digitally Signed By: Marc T. Carrier 06/27/2022 <div style="text-align: center; margin-top: 20px;">Charging Party Signature</div>		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

MARC CAROLAN

399 GANSEY RD

Palmyra, NY 14522

U.S. DISTRICT COURT OF WESTERN NY.

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